

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Gary K. Michelson, M.D. )  
Serial No.: (Div. of 10/094,467) ) (Group Art Unit: 3732)  
Filed: November 20, 2003 ) (Examiner: P. Philogene)  
For: EXPANDABLE INTERBODY SPINAL )  
FUSION IMPLANT WITH EXPANSION )  
CONSTRAINING MEMBER AND )  
METHOD FOR USE THEREOF )

MS PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed concurrently with the above-referenced application.

Copies of the listed documents were previously submitted in prior Application No. 10/094,467, filed March 8, 2002, upon which applicant relies for the benefits provided in 35 U.S.C. § 120.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed

documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines that the cited documents do not constitute "prior art" under United States law, applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.


Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: November 20, 2003

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Substitute for FORM PTO-1449	Attorney Dock t Number 101.0107-01000	Customer No. 22882
<b>INFORMATION DISCLOSURE CITATION IN AN APPLICATION</b>	Applicant Gary K. Michelson, M.D.	Application Number (Div. of 10/094,467)
(Use several sheets if necessary) Sheet <u>1</u> of <u>1</u>	Filing Date November 20, 2003	Group Art Unit (3732)      Examiner (P. Philogene)

**U.S. PATENT DOCUMENTS**

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	4,501,269	02/1985	Bagby			
	4,657,550	04/1987	Daher			
	4,763,644	08/1988	Webb			
	4,878,915	11/1989	Brantigan			
	5,980,522	11/1999	Koros et al.			
	6,117,174	09/2000	Nolan			
	6,344,057	02/2002	Rabbe et al.			

**FOREIGN PATENT DOCUMENTS**

	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION (YES/NO)

**OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)**

	Otero-Vich, Jose M.; Anterior Cervical Interbody Fusion with Threaded Cylindrical Bone; J. Neurosurg 63:750-753 (November 1985).

**EXAMINER****DATE CONSIDERED**

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.